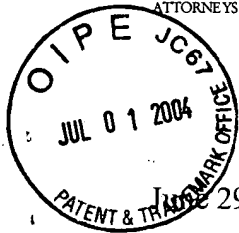


Vinson & Elkins
ATTORNEYS AT LAW



JUL 29, 2004

MAIL STOP APPEAL BRIEF - PATENTS

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June 29, 2004

Date

Timothy S. Corder

Re: U.S. Patent Application Serial No. 09/813,327 entitled "ALL NATURAL ACCELERATED AGING OF DISTILLED SPIRITS" by Gross, *et al.*
(Our Ref. No.: KAI475/4-002DIV/58001)

Sir:

Enclosed for filing in the above-referenced patent application are the following:

1. Appeal Brief in triplicate (21 pages each);
2. Credit Card Payment Form (\$375.00 - \$210.00/request for extension of time and \$165.00 filing fee); and
3. Postcard.

Please date-stamp the enclosed postcard and return to evidence receipt of these documents.

Please consider this letter a request for a two-month extension of time. The fee is enclosed.

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Respectfully submitted,

Timothy S. Corder
Patent Agent
Reg. No. 38,414

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Enclosures

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Remy F. Gross II *et al.*

Serial No.: 09/813,327

Filed: March 20, 2001

For: ALL NATURAL ACCELERATED
AGING OF DISTILLED SPIRITS

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Group Art Unit: 1761

Examiner: Sherrer, C.

Atty. Dkt.: KAI475/4-002DIV/58001

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June 29, 2004

Date

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BRIEF ON APPEAL

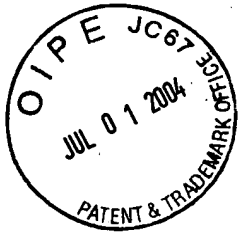
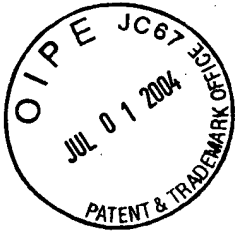


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PATENT

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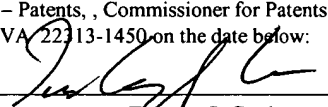
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Timothy S. Corder

BRIEF ON APPEAL

MAIL STOP APPEAL BRIEF - PATENTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I. REAL PARTY IN INTEREST

The real party in interest of the present case is Kairos Corporation.

II. RELATED APPEALS AND INTERFERENCES

The present application is a divisional of U.S. Serial No. 09/440,037 ('037). The '037 application was the subject of a previous appeal to the Board of Patent Appeals and Interferences,

Appeal No. 2002-2029, appealing the final rejection of all claims by the same Examiner in charge

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of the present application. All rejections of all claims in the '037 application were reversed by the Board of Appeals and Interferences (*Ex parte Remy F. Gross II, John P. Delmore, and Walter E. Buske*, Appeal No. 2002-2029, Mailed March 18, 2003). No other appeals or interferences are known to appellants that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

This application was filed on March 20, 2001, with claims 1-23. Claims 1-14 and 20-23 were canceled in a Preliminary Amendment filed on March 20, 2001, as they were being prosecuted in a related application. Those claims were the subject of the Appeal discussed above and issued March 9, 2004 as U.S. Patent No. 6,703,060. In response to a Restriction Requirement, Claims 15-19 were canceled and new claims 24-42 were added on November 6, 2002. Claim 38 was canceled in response to a Final Office Action of July 30, 2003. Claims 24-37 and 39-42 are currently in the case.

A copy of the claims on appeal is attached hereto as Appendix 1.

IV. STATUS OF AMENDMENTS

The amendment filed on October 9, 2003, after the Final Office Action amending claim 36 and canceling claim 38 was entered. This amendment canceled claim 38 and imported the limitations of claim 38 into independent claim 36, from which it depended. Because claim 38 was not rejected under §102, the addition of the elements of claim 38 into independent claim 36 effectively removed all rejections under §102, thus simplifying the case for appeal. The Examiner however, issued a second Final Office Action on January 29, 2004 maintaining the rejection of claims 36 and 39-42 under §102. Because this was a new ground of rejection for the subject matter

of canceled claim 38 now incorporated into claim 36, the finality of that Action is improper. Appellant however asserts his right to appeal twice rejected claims to the Board of Patent Appeals and Interferences.

V. SUMMARY OF THE INVENTION

The inventions claimed in the subject application are methods for accelerated aging of distilled beverages that are conventionally aged in barrels or in contact with wood or wood products. The beverages to be aged are preferably ethanolic, or ethanol containing beverages and more preferably brown distilled spirits. Brown distilled spirits include whiskeys such as American Bourbon, Scotch, Irish, rye, or Canadian, as examples, and rum, tequila, brandy, cognac, armagnac, liqueur, mescal, eau de vie, aguardiente, and shogu (schouchoo). A primary benefit or utility of the invention is that the chemical reactions that occur in aging or maturing of distilled beverages can be accelerated by containing the beverage in a closed system and circulating the beverage through a flavor transfer cartridge containing a wood product within the system. The cartridge may be removed from the system and replaced with a cartridge containing additional wood product or a different wood product. Thus the closed system may be used to conveniently process high volumes of beverage by interchanging only the flavor transfer cartridge when the wood product therein is spent, and can be used to process different beverages by using interchangeable cartridges containing different wood products. This apparatus allows the beverage to acquire the organoleptic characteristics of a matured beverage in a greatly accelerated manner (Specification pg 3, lines 25-28).

The apparatus includes a wood product containing cartridge, which is an interchangeable cartridge that is configured to be placed temporarily in the system for use in maturing a single

batch or run of beverage. The cartridge may then be removed from the system without affecting any of the other components. Subsequently, another cartridge can be added in its place for the next run. The system thus allows for an apparatus to be set up permanently and conveniently used for aging of many different beverages. Cartridges are designed for each individual beverage by containing the proper wood product. By use of the claimed apparatus, one has the flexibility to produce one batch of beverage with the character of a 4 year old conventionally aged beverage in a first run, and then produce a beverage with the character of a sixteen year old conventionally aged beverage in the next run.

The apparatus includes a closed system of piping for circulation of the beverage; a pump for circulating said beverage through said closed system; an inlet for injecting gas or air into said closed system; a heat exchanger configured to control the temperature of a beverage in said system; a filter configured to filter said beverage during or after processing; a valve for sampling said beverage during processing; and an interchangeable cartridge for a beverage aging wood product connectable to the closed system by an inlet port and an outlet port in fluid communication with the closed system

VI. ISSUES ON APPEAL

The issues for determination in this appeal are as follows:

(1) Whether the rejection of claims 24-37, and 39-42 under 35 U.S.C. 112, Second Paragraph as indefinite for failing to particularly point out and distinctly claim the subject matter which Appellants regard as the invention is proper; and

(2) whether the rejection of claims 36 and 39-42 under 35 U.S.C. 102 (b), as being

anticipated by Apeldoorn et al. (U.S. Patent No. 5,980,694) is proper.

VII. GROUPING OF CLAIMS

For the purposes of the pending rejections under 35 U.S.C. 112, 2nd ¶, regarding the use of the term "about" Claims 24 and 37 stand or fall together and Claim 35 stands or falls separately. Regarding the use of the term "partially aged beverage" Claims 24 and 36 stand or fall together. Each of Claims 25-34 and 39-42 stand and fall separately as none of these claims contain the disputed terms.

For the purposes of the pending rejections under 35 U.S.C. 102(b), Claims 36 and 39-42 stand or fall together.

VIII. ARGUMENT

A. Rejection of Claims 24, 35 and 37 Under 35 U.S.C. 112, Second paragraph

The final Action rejects claims 24, 35, and 37 as indefinite because the scope of the term "about" is allegedly indefinite.

B. Appellants' Argument

The term "about" as used in claims 24, 35 and 37 is not indefinite. It is well established in patent law that the use of flexible terms such as "about" does not necessarily render a claim indefinite as long as one of skill in the art would be reasonably apprised of the scope of the claim. Appellants assert that one of skill in the art would easily determine the scope of the present claims.

The use of the term "about" has caused claims to be found indefinite in two special circumstances. The first is when there is some question of the method of measuring as in the *Amgen* case discussed below, in which there was some question of the proper method of

measuring specific activity of a protein in solution. The second is when there is close prior art, and there is some question about whether the flexibility in the claimed scope might reach to the prior art. Neither of these special circumstances apply in the present application.

For example, claims 24 and 37 recite an oven temperature of "from about 100°C to about 240°C," further claims an ethanol solution at a temperature of "up to about 55°C," and still further recite heating granules to a temperature of up to "about 220°C." The method of measuring the temperature of an oven or of a solution is well within the knowledge of the skilled artisan, who would be able to read a thermometer and determine with reasonable certainty whether an oven or a solution is heating to a temperature of "from about 100° C to about 240° C" or up to about "55°C" or even up to "about 220°C." The same holds for claim 35, which recites a beverage processed at a temperature of "from about 70° to about 170°F." In this case it is just a matter of using a Fahrenheit thermometer rather than Centigrade as in claims 24 and 37. Certainly this is within the knowledge of the skilled artisan. **Since there is no dispute about the method of measurement of the temperatures, and since no close prior art has been cited, the use of the term "about" in conjunction with the cited temperatures is not indefinite, and this rejection should be overturned.**

Claims 24 and 37 also contains element of time, for example, "at least about 15 minutes." The measurement of 15 minutes is again well within the knowledge available in the art. The skilled artisan can certainly look at a clock, watch or even a timer to determine whether a time period is about 15 minutes. **Since there is no dispute about the method of measurement of the time period, and since no close prior art has been cited, the use of the term "about" in conjunction with the cited time period is not indefinite, and this rejection should be overturned.**

Claims 24 and 37 also recited a concentration of ethanol solution as "from about 50% to about 95% ethanol." Appellants again submit that one of skill can read a graduated cylinder or flask to determine the concentration of a solution as from about 50% to about 95% ethanol, as recited in claims 24 and 37. There is therefore, no indefiniteness in the use of about in the rejected claims.

The Board's attention is drawn to MPEP 2173.05(b) A. in which the term "about " is discussed in reference to indefiniteness in claims containing that term. In two of the three cases discussed, the use of the term "about" was found to be definite. The only case discussed in which the claim was indefinite is *Amgen v. Chugai* 927 F.2d 1200, 18 USPQ2d 1016 (Fed. Cir. 1991). The Amgen case is distinguished from the present application, because it is a biotech case and, particularly at the time the invention was made, the measurement of specific activity of the protein in the claims was inherently imprecise. The case is further distinguished because the claim was amended to include the limitation "at least about 160,000" in order to overcome close prior art.

The district court found that "bioassays provide an imprecise form of measurement with a range of error" and that use of the term "about" 160,000 IU/AU, coupled with the range of error already inherent in the specific activity limitation, served neither to distinguish the invention over the close prior art (which described preparations of 120,000 IU/AU), nor to permit one to know what specific activity values below 160,000, if any, might constitute infringement. 13 USPQ2d at 1787. It found evidence of ambiguity in the fact that Chugai, GI's partner, itself questioned whether the specific activity value of 138,000 IU/AU for its own rEPO was within the claim coverage. *Amgen* at 1030

The Court explicitly stated in the Amgen case that this finding did not preclude the use of "about" in claims.

In arriving at this conclusion, we caution that our holding that the term "about" renders indefinite claims 4 and 6 should not be

understood as ruling out any and all uses of this term in patent claims. It may be acceptable in appropriate fact situations, e.g., *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1557, 220 USPQ 303, 316 (Fed. Cir. 1983) ("use of 'stretching ... at a rate exceeding about 10% per second' in the claims is not indefinite"), even though it is not here. *Id* at 1031

The Federal Circuit has thus stated that an indefiniteness rejection because of the use of the term about is a special case and is not generally applicable. Because there is no close prior art in the present case, and further because the measurements of time, temperature and concentration required by the claims are not inherently imprecise, the finding in the Amgen case are not relevant to the present rejection.

The present claims merely encompass measurements of temperature, time, and concentration which are all straight-forward measurements that are routine in the art. There is no reason to believe that one of skill in the art would not be able to understand the scope of the claims, and none has been presented in the Action. Neither does the Action provide any reasonable explanation for its conclusory statement that the claims are indefinite for using the term "about." According to the Examiner's position, any claim containing the word "about" would be indefinite. That is contrary to the cases cited in MPEP 2173.05(b) A, in which at least two uses of the term are found not to be indefinite.

Furthermore in the Final Action, the Examiner states that MPEP 2173.05(b) sets forth that the phrases, "of the order of" and "substantially" are indefinite and he contends that those phrases are variations or synonyms of "about."

Appellants traverse, first on the ground that the Examiner has misread the MPEP regarding the term "substantially." MPEP 2173.05(b) D states in its entirety:

The term "substantially" is often used in conjunction with another term to describe a particular characteristic of the claimed invention.

It is a broad term. *In re Nehrenberg*, 280 F.2d 161, 126 USPQ 383 (CCPA 1960). The court held that the limitation "to substantially increase the efficiency of the compound as a copper extractant" was definite in view of the general guidelines contained in the specification. *In re Mattison*, 509 F.2d 563, 184 USPQ 484 (CCPA 1975). The court held that the limitation "which produces substantially equal E and H plane illumination patterns" was definite because one of ordinary skill in the art would know what was meant by "substantially equal." *Andrew Corp. v. Gabriel Electronics*, 847 F.2d 819, 6 USPQ 2d 2010 (Fed. Cir. 1988).

Thus, the MPEP section referred to by the Examiner in the Final Action directly contradicts his reasoning for this rejection since no case is described in which "substantially" is held to be indefinite.

The Examiner also refers to "on the order of" which appears in a claim in the application of *Ex parte Oetiker*, 23 USPQ2d 1641 (BPAI 1992) as being interchangeable with the term "about". Appellants do not agree. Even though the Board rejected Claim 4 of the Oetiker application as indefinite, the rejection was not based merely on the use of the term, but rather on the context of that use within the claim. Upon reconsideration of the rejection, the Board stated:

With regard to the expression "of the order of" in claim 4, appellant's only argument (see page 14 of the request for reconsideration) is that this expression usually refers to a quantity plus or minus a small amount. Apart from the fact that no standard or guideline is presented to establish what is a "small amount", it is not just a question of the uncertainty of the expression in the abstract, but in the context used in claim 4. Here, the claim effectively requires that the distance in question be less than the length of the leg portions and hence less than a length of the order of 5 mm, but approaching "the order of 5 mm" (claim 4). Thus, not only is the distance in question required to approach the order of 5 mm, but it is also required to have a value that is less than the order of 5 mm. Nothing herein would reasonably apprise one skilled in the art of the scope of such a limitation.

Therefore, even if "on the order of" is a synonym for "about," its use does not necessarily render a claim indefinite. In the example from MPEP, a claim containing the term was found to

be indefinite because of internal contradictions that rendered the claim indefinite. No such indefiniteness exists in the claims of the present application.

Because the use of the term "about" in the appealed claims is readily understandable to one of skill in the art, and further because the Examiner has not offered any explanation of why the term "about" renders the appealed claims indefinite, Appellants respectfully request that the Board overturn the final rejection of Claims 24, 35 and 37 as indefinite for use of the term "about."

C. Rejection of Claims 24 and 36 Under 35 U.S.C. §112, Second paragraph

The Final Action also rejects claims 24 and 36 as indefinite because the scope of the phrase "partially aged beverage" is allegedly not known and the Action states that specifically, the term "partially" renders the claims indefinite.

D. Appellants' Argument

The term "partially aged beverage" in the preambles of claims 24 and 36 does not render those claims indefinite. Appellants respectfully traverse in part, because determination of whether a beverage is fully aged or not is not necessary for the practice of the invention. Claims 24 and 36 are each claims to apparatus for processing beverages. The preambles indicate that the beverages to be processed can be unaged or partially aged. Whether one is using the apparatus for an unaged or a partially aged beverage does not change the structure of the apparatus, and thus does not change the scope of claims 24 or 36. One skilled in the relevant art would understand that the invention recited in the claims is not limited to any particular degree of aging of a beverage placed in the apparatus, as long as the material elements of the apparatus are in use. For example, the Specification states at page 6, lines 6-10,

the present invention may be practiced in combination with barrel aging of a beverage, to begin or finish a maturing process for a

beverage that is partially aged in a barrel. In preferred embodiments, however, the raw distillate, or a partially aged distillate is aged in a liquid impermeable container, and/or a closed system that prevents a loss of water or ethanol such as may occur when a beverage is aged in an oak barrel or cask.

Thus the Specification clearly explains what is meant by a partially aged beverage in terms that would be understood by any person acquainted with the art.

Appellants submit that this rejection is exactly analogous to a previous rejection by the same Examiner in a commonly owned application in which method claims were rejected as indefinite for use of the term "matured beverage." In overturning that rejection, the Board of Patent Appeals and Interferences stated "From this disclosure and the express terms of the claims, it is our judgment that one skilled in the relevant art would understand that the invention recited in the appealed claims is not limited to any particular degree of maturation, provided that the material steps of the process are carried out." Ex Parte Remy F. Gross II, John P. Delmore, and Walter E. Buske, Appeal No. 2002-2029, Application No. 09/440,037

Because one of skill would clearly understand what is meant by the term, "partially aged," and further because the claims are not limited to any particular level of partial aging, Appellants respectfully request the Board to overturn the final rejection of claims 24 and 36 as indefinite for use of the term "partially aged."

E. Claims 25-34 and 39-42 Are Separately Patentable

No ground of rejection is stated in the Final Action for Claims 25-34 and 38-42. Neither do any of Claims 25-34 or 38-42 contain any of the terms cited as giving rise to the rejections under 112, 2nd. Appellants submit, therefore, that these claims are more properly objected to as dependent from a rejected base claim. Appellants request that upon a reversal of the rejections of claims 24 and 36, that claims 25-34 and 38-42 be deemed to be allowable. If some ground of

rejection is entered against these claims, Appellants request an opportunity to respond to any such ground of rejection prior to a final decision on this appeal.

F. Rejection of Claims 36 and 39-42 Under 35 U.S.C. §102(b)

The Action has rejected claims 36 and 39-42 over US Patent No. 5,980,694 (Apeldoorn). The first Office Action stated that Apeldoorn teaches the use of various apparatuses that includes closed system of piping which has various pumps, an inlet, several heat exchangers, a filter (5) and valves and a container. The Action further states that several tanks are attached that could function to flush the system.

G. Appellants' Argument

Appellants respectfully traverse the rejection in that not every element of the rejected claims is described in a single reference. For example, Appellants find no description in Apeldoorn of several elements of Claim 36, the broadest claim rejected under §102. Appellants further submit that the Examiner has attempted to find each element of the claim in the cited reference in order to reconstruct the claimed invention without regard to the interactions or interconnections of those elements within the claimed apparatus. The claims are not drawn to separate elements floating in space or thrown on the ground, but rather to a system of interconnected parts, in which, without the interconnections, the apparatus would not be operable.

Appellants find no description in Apeldoorn of "a closed system of piping for *circulation* of a beverage, or a pump for *circulating* said beverage through said closed system as in Claim 36.

From a reading of the present specification, it is clear that the claimed apparatus is a closed system that continuously circulates a beverage through the system such that the beverage passes through the wood product containing cartridge and then re-circulates through the system and re-enters the cartridge until the aging process reaches the desired level of completion. The Apeldoorn system does not appear to be configured to continuously circulate a liquid.

Support for circulation is expressed in the Specification at page 3, line 25,

The present disclosure provides methods by which a raw distilled liquid may be contained in a closed system and circulated through a flavor transfer cartridge containing a comminuted wood product, thus acquiring the organoleptic character of a matured beverage in a greatly accelerated manner.

And at page 8, line 9,

The tank may be connected by piping or tubing to a pump that circulates the beverage through a heat exchanger, a filter and into a device that contains a wood product for aging, or transferring flavor to the beverage.

And at page 8, line 28:

A cartridge includes a connection port for introducing beverage from the system into the cartridge, includes an interior cavity for holding the wood product and for contacting the wood with the beverage while the beverage passes through the cartridge, and includes an outlet port for circulating the beverage from the cartridge back into the system.

One of skill would understand from the disclosure that the beverage circulates in a loop through the system until the desired aging is achieved, "in as little as 15 to 40 days" as stated on page 4, line 2 of the Specification. Appellants find no such circulating system in Apeldoorn.

Appellants find no description in Apeldoorn of "a filter configured to filter said beverage during or after processing" as in Claim 36.

The Action points to filter 5 of Apeldoorn, and the copy provided to Appellants has col. 2, line 59 underlined: "This pre-separation unit may take the form of a filter."

This pre-separation unit described in Apeldoorn does not anticipate a filter configured to filter said beverage during or after processing as described in Claim 36. Although the Apeldoorn reference describes a system that may contain a pre-filter, the rejection ignores the placement of the filter in the claimed system as being configured to filter the beverage during or after processing, rather than prior to processing as described in the Apeldoorn system. The Apeldoorn filter is configured to remove solids from oil-polluted water coming directly from an oil production facility. See col. 2, line 32, which states that a pre-cleaning installation may be incorporated in the polluted water feed in order to supply the distillation column with water from which dust particles and part of the oil have been removed so that the distillation column is a little less heavily burdened. Placing the filter as described in the present claim would make no sense in the Apeldoorn patent. For example, at column 2, line 29, the patent states that after-cleaning is unnecessary, and if present, is a UV-oxidation unit, not a filter as in rejected claim 36.

In contrast, the filter of Claim 36 does not filter the raw or partially aged distillate, but rather filters the beverage that has contacted the wood product during or after processing. Because the Apeldoorn filter is not configured as described in Claim 36, the reference does not anticipate the Claim, and this rejection should be withdrawn.

Appellants find no description in Apeldoorn of "a valve for sampling said beverage during processing" as in Claim 36.

Appellants submit that the valves described in Apeldoorn as numbers 12 and 35, which are operated in response to the analysis installations are described as 3-way valves for directing the fluid to one of two pipes. Neither of these is a valve for sampling the beverage during processing to monitor the chemical or organoleptic properties of the beverage during processing. This valve is also described in the Specification as a "port" (44 in Figure 1). The figure clearly shows that this is a port or valve to remove samples from the system and is not a 3-way valve to redirect the liquid to either of two pipes.

Because the Apeldoorn patent does not describe a valve for sampling the liquid during processing as described in Claim 36, the reference does not anticipate the Claim, and this rejection should be withdrawn.

Appellants find no description in Apeldoorn of "a container for a beverage aging wood product in fluid communication with the closed system so that a beverage circulating in the closed system contacts the beverage aging wood product during use" as in Claim 36.

The Action takes the position that any description of a container anticipates this claim element, thus ignoring all terms in the element other than container. Appellants submit that this is improper and that the claims must be read in light of the specification. Tanks for holding oil polluted water and sea water do not anticipate a container for the beverage processing wood product described in the specification and cited as an element of Claim 36, which container is an "in-line" cartridge configured so that the circulating beverage passes through the cartridge during circulation through the system. The container is not a "dead end" container from which materials can be added or removed from the piping. The Examiner has produced no evidence that any container described in Apeldoorn would anticipate this element of Claim 36.

Because the Apeldoorn patent does not describe every element of the rejected claims, the reference cannot anticipate the pending claims. Appellants respectfully request that this rejection be overturned.

IX. CONCLUSION

Appellant respectfully submits that from the foregoing observations and arguments, a conclusion of indefiniteness or anticipation of the claims is unwarranted. It is therefore respectfully requested that the Board overturn the Examiner's rejections.

Respectfully submitted,



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Agent for Appellants

Date: June 29, 2004

APPENDIX 1

24. Apparatus for processing an unaged or partially aged beverage comprising a closed system wherein the closed system comprises a beverage aging wood product such that a beverage passing through said system contacts said wood product; wherein said beverage-aging wood product is prepared by the process of:

- (i) comminuting raw, untreated wood into granules;
- (ii) heating said granules to a temperature of from about 100° C to about 240° C for a period of at least one hour;
- (iii) contacting the granules with a solution of aqueous ethanol containing from about 50% to about 95% ethanol at a temperature of up to about 55° C;
- (iv) separating the granules from the solution; and
- (v) heating the granules to a temperature of up to about 220° C for a period of at least about 15 minutes.

25. The apparatus of claim 24, wherein said beverage aging wood product is contained in an interchangeable cartridge.

26. The apparatus of claim 24, wherein said apparatus comprises a pump for circulating said beverage in said system.

27. The apparatus of claim 24, wherein said apparatus comprises an inlet for injecting gas or air into said system.

28. The apparatus of claim 24, wherein said apparatus comprises a heat exchanger configured to control the temperature of a beverage in said system.

29. The apparatus of claim 24, wherein said apparatus is configured to flush said wood product after a processing run.

30. The apparatus of claim 24, wherein said apparatus comprises a filter configured to filter said beverage during or after the maturation processing.

31. The apparatus of claim 24, wherein said apparatus comprises a valve for sampling said beverage during processing.

32. The apparatus of claim 24, wherein said beverage is an ethanolic beverage.

33. The apparatus of claim 24, wherein said beverage is a brown distilled spirit.

34. The apparatus of claim 24, wherein said beverage is Bourbon, Scotch, Irish, rye, Canadian or other whiskey, rum, tequila, brandy, cognac, armagnac, liqueur, mescal, eau de vie, aguardiente, or shogu (shouchuu).

35. The apparatus of claim 24, wherein said beverage is processed at a temperature of from about 70° to about 170° F.

36. Apparatus for processing an unaged or partially aged beverage, said apparatus comprising:

a closed system of piping for circulation of the beverage;

a pump for circulating said beverage through said closed system;

an inlet for injecting gas or air into said closed system;

a heat exchanger configured to control the temperature of a beverage in said system;

a filter configured to filter said beverage during or after processing;

a valve for sampling said beverage during processing; and

a interchangeable cartridge for a beverage aging wood product connectable to the closed system by an inlet port and an outlet port in fluid communication with the closed system so that a beverage circulating in the closed system contacts the beverage aging wood product during use.

37. The apparatus of claim 36, wherein said container contains a beverage aging wood product prepared by the process of:

- (i) comminuting raw, untreated wood into granules;
- (ii) heating said granules to a temperature of from about 100° C to about 240° C for a period of at least one hour;
- (iii) contacting the granules with a solution of aqueous ethanol containing from about 50% to about 95% ethanol at a temperature of up to about 55° C;
- (iv) separating the granules from the solution; and
- (v) heating the granules to a temperature of up to about 220° C for a period of at least about 15 minutes.

39. The apparatus of claim 38, further comprising a flush tank and piping configured to flush said wood product after a processing run.

40. The apparatus of claim 36, wherein said beverage is an ethanolic beverage.

41. The apparatus of claim 36, wherein said beverage is a brown distilled spirit.

42. The apparatus of claim 36, wherein said beverage is Bourbon, Scotch, Irish, rye, Canadian or other whiskey, rum, tequila, brandy, cognac, armagnac, liqueur, mescal, eau de vie, aguardiente, or shogu (shouchuu).